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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,684	08/05/2003	Thaddeus J. Mielnik	MEDZ 2 01312	7138
7590 12/18/2006 Thomas E. Kcovsky, Jr. FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP Seventh Floor 1100 Superior Avenue Cleeland, OH 44114-2518			EXAMINER JOYNER, KEVIN	
			ART UNIT 1744	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			12/18/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/634,684	Applicant(s) MIELNIK ET AL.	
	Examiner Kevin C. Joyner	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 19-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/8/05; 2/17/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on November 1, 2006 is acknowledged. The traversal is on the ground(s) that Group I limits its claims to a method where the source of the sterilant is fluidly connected to the enclosure, citing claims 3 and 4 showing that the decontaminant is a fluid and claims 6-9 showing that the decontaminant is connected to the enclosure. The decontaminant is a fluid, however, this is not found persuasive because the decontaminant source does not have to be fluidly connected to the enclosure. The source may be provided in a spray bottle inside the enclosure that is closed which would provide a source that is not fluidly connected to the enclosure. Obviously, the bottle would provide a barrier that would disconnect the fluids from each other. Regarding claims 6-9, the limitation is made for the chamber to be connected to the enclosure, and not the decontaminant source to be connected to the enclosure. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 14, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Wen (U.S. Patent No. 7,067,089).

3. Wen discloses a method for handling mailed items potentially contaminated with a pathogenic agent comprising:

sorting the potentially contaminated items in an enclosure (as shown in Figure 1 the enclosure (10) sorts the mail as disclosed in column 2, lines 24-26);

treating at least a portion of the sorted items with an oxidizing gas capable of destroying the pathogenic agent (column 2, lines 40-54); and

treating the enclosure with a second decontaminant (Column 2, lines 27-30 discloses UV radiation, which is a decontaminant, being used to irradiate the sanitizing zone.). Concerning claim 14, Wen also discloses that the items are examined with an x-ray machine as disclosed in column 2, lines 30-34.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wen (U.S. Patent No. 7,067,089) in view of Baran (U.S. Patent No. 4,241,010).

Wen is relied upon as set forth in reference to claims 1, 2, 14, and 15 above. Wen does not appear to disclose that the oxidizing gas is ethylene oxide. Baran discloses biocidal gas sterilization methods in which ethylene oxide is used to sterilize items (column 1, lines 8-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include in the method of Wen using ethylene oxide in the sterilize items as is a known sterilant against harmful bacteria as exemplified by Baran.

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wen (U.S. Patent No. 7,067,089) in view of Mueller et al. (U.S. Patent No. 5,792,435).

Wen is relied upon as set forth in reference to claims 1, 2, 14, and 15 above. Wen does not appear to disclose that the decontaminant includes hydrogen peroxide. However, hydrogen peroxide is a well known decontaminant used in the sterilization of enclosures as exemplified by Mueller. Mueller discloses a vapor phase decontaminant isolator apparatus that utilizes hydrogen peroxide as disclosed in column 1, lines 9-11. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the decontaminant of hydrogen peroxide in the method of Wen as is a known decontaminant as exemplified by Mueller.

7. Claims 6, 7, 10-13, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wen (U.S. Patent No. 7,067,089) in view of Ryan, Jr. et al. (U.S. Patent No. 7,071,437).

Wen is relied upon as set forth in reference to claims 1, 2, 14, and 15 above, in which she discloses among other things, a method for sanitizing items is disclosed that

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includes an enclosure, in which the enclosure itself is sanitized. Wen does not appear to disclose that the enclosure is selectively connected to a chamber, which is isolatable from the enclosure, wherein treating with the first decontaminant is carried out in that chamber. Ryan, Jr. discloses a method for sanitizing items which includes an enclosure (referenced as a singulator (12)), operated under negative pressure (As disclosed in column 7, lines 33 and 34, the enclosure is in a sanitization room that is operated under negative pressure, therefore it is operated under a negative pressure), that is selectively connected to and isolatable from a chamber (referenced as a sanitizer (13)), that carries out decontamination (column 7, lines 18-63). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Wen to selectively connect the chamber with an airtight enclosure that is isolatable from the enclosure as exemplified by Ryan Jr. This would allow operators the chance to sort items in a separate enclosure before sanitizing them in order to support the sanitization process.

Concerning claim 7, Wen is relied upon as set forth in reference to claims 1, 2, 14, and 15 above, in which the patent discloses among other things, a method for sanitizing items is disclosed that includes an enclosure, in which the enclosure itself is sanitized. Wen does not appear to disclose transporting the at least a portion of the items from the enclosure to the chamber connected with the enclosure; and closing off the chamber from the enclosure. Ryan Jr. is relied in reference to claims 6 and 10 above. Ryan Jr. further discloses transporting the at least a portion of the items from the enclosure to the chamber connected with the enclosure and closing off the chamber

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from the enclosure (as disclosed in column 7, lines 35-38). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the method of Wen transporting the items from the enclosure to the chamber and closing off the chamber from the enclosure in order to place the items to be sanitized in their necessary location and to deter any chemicals in the sanitization area from spreading to its surroundings as exemplified by Ryan Jr.

Concerning claim 11, Wen is relied upon as set forth in reference to claims 1, 2, 14, and 15 above, in which a method for sanitizing items with an enclosure that sanitizes the enclosure itself is disclosed. Wen does not appear to disclose using manipulators to sort the items; and placing the items to be decontaminated in a basket. Ryan Jr. is relied upon as set forth above. Ryan, Jr. continues to disclose that the method includes using manipulators to sort the items; and placing the items to be decontaminated in a basket. This is disclosed in column 11, lines 4-10 wherein the items are placed in a bucket, which is a known equivalent alternative of a basket. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include in the method of Wen using manipulators to sort the items and placing them in a basket for transfer, as is a known method of sorting and transporting items as exemplified by Ryan, Jr.

Concerning claim 16, Wen is relied upon as set forth in reference to claims 1, 2, 14, and 15 above, in which a method for sanitizing mailed items that includes an enclosure that decontaminates the enclosure itself is disclosed. Wen does not appear to disclose that the method includes scanning the document in the mail with a

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scanning device within the enclosure to generate a scanned image; and transmitting the scanned image to a location outside the enclosure. Ryan Jr. is relied upon as set forth above in which the patent further discloses that the method includes scanning the document in the mail with a scanning device within the enclosure to generate a scanned image; and transmitting the scanned image to a location outside the enclosure (as shown in Figure 9a, and disclosed in column 10, lines 52-66).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include in the method of Wen a scanning device within the enclosure that transmits the scanned image to a location outside the enclosure in order to examine the mail from an area away from the enclosure as exemplified by Ryan Jr.

Concerning claims 17 and 18, Wen is relied upon as set forth in reference to claims 1, 2, 14, and 15 above, in which she discloses among other things, a method for sanitizing mailed items with an enclosure that decontaminates the enclosure. Wen does not appear to disclose that the method includes one detector capable of detecting pathogenic agents when present at a detectable level within the enclosure. Ryan, Jr. is relied upon as set forth above in which the patent further discloses that the method includes one detector capable of detecting pathogenic agents when present at a detectable level within the enclosure and improving the effectiveness of the treating (column 10, lines 8-14 as well as column 7, lines 1-4). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the method of Wen a detector capable of detecting pathogenic agents within the enclosure as exemplified by Ryan, Jr. in order to determine which items were contaminated.

Concerning claims 12 and 13, Wen is relied upon as set forth above in which a method is disclosed for decontaminating items in an enclosure with a first decontaminant as well as decontaminating the enclosure itself. The patent further states that the items are sorted and transported to the enclosure, which introduces a gaseous sterilant to the enclosure for a sufficient amount of time to decontaminate the items followed by aerating the enclosure to remove residual sterilant (abstract). Wen does not appear to disclose having two separate housings (an enclosure and a chamber) to accomplish the tasks of sorting and sterilizing (the patent accomplishes these tasks in one apparatus), or loading a portion of the items in a basket; and transporting the basket into the chamber of a sterilizer connected with an enclosure. Ryan, Jr. is relied upon as set forth above in which the patent discloses an enclosure for sorting mailed items that is connected to a chamber for sterilizing wherein a portion of the items are loaded into a basket (as disclosed in reference to claims 6, 7, and 11) and transported to a sterilizing chamber (Ryan Jr. does not explicitly state that the items are transported to a sterilizing chamber, however it would have been obvious to one of ordinary skill in the art that the sorted contaminated items would be sterilized in a chamber such as the one discussed in the alternate embodiment disclosed by Ryan Jr.). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Wen to include a first enclosure for sorting and a second chamber for sterilizing wherein the items are loaded into a basket and transported to a chamber for sterilization as exemplified by Ryan, Jr. in order to reduce costs by only sterilizing contaminated mail.

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Folsom et al (U.S. Patent No. 4,11,753).

Wen is relied upon as set forth above in a method is disclosed for sorting and sanitizing items in an enclosure. Wen does not appear to disclose how the items are introduced to the enclosure. More specifically, that the items are introduced in a sealed container including: connecting the sealed container containing the items with an interlock which selectively provides access to the enclosure while forming a seal between the container and the interlock; with the container connected to the interlock, opening the container to the enclosure; and introducing the items to the enclosure from the container. Folsom discloses an apparatus and method for transferring items to a sealed chamber from a sealed container. The patent continues to disclose that the items are introduced in a sealed container (30) including: connecting the sealed container containing the items with an interlock which selectively provides access to the enclosure while forming a seal between the container and the interlock; with the container connected to the interlock, opening the container to the enclosure; and introducing the items to the enclosure from the container (as disclosed in column 3, lines 53-68 as well as Figures 1, 4, and 8). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include in the method of Wen the method of introducing the items into the enclosure as exemplified by Folsom in order to keep the enclosure from being contaminated by the surroundings as well as to keep the surroundings contamination free from any of the decontaminates located in the enclosure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Joyner whose telephone number is (571) 272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCJ


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